

1

2

3

4

5

6

IN THE UNITED STATES DISTRICT COURT

7

FOR THE NORTHERN DISTRICT OF CALIFORNIA

8

9

10

WAYMO LLC,

No. C 17-00939 WHA

11

Plaintiff,

12

v.

**TENTATIVE ORDER RE
EXPEDITED DISCOVERY
(To Be Discussed at the
Conference on March 16)**

13

UBER TECHNOLOGIES, INC., *et al.*,

14

Defendants.

15

16 After a conference with both sides to critique a tentative order, this order sets forth a
17 plan for expedited discovery for both sides leading up to a hearing on plaintiff's motion for
18 provisional relief:

19

1. Defendants may depose the declarants who submitted declarations in
20 support of plaintiff's motion for preliminary injunction. In addition,
21 defendants may depose up to three additional plaintiff officers, directors, or
22 employees. Plaintiff must make said deponents available upon 48 hours
23 notice. Defendants may have a total of 18 hours of deposition time (not
24 counting breaks), to be allocated among deponents as they wish. These
25 depositions may begin as soon as the required notice is given.

26

2. Upon 96 hours notice, plaintiff must produce specific documents at the
27 depositions. The document requests, however, must be very narrowly
28 drawn and limited to six requests per deponent.

United States District Court

For the Northern District of California

- 1 3. The deadline for defendants to oppose plaintiff's motion for preliminary
- 2 injunction is continued from March 24 to **APRIL 7**.
- 3 4. By March 31, defendants shall produce for inspection all files and
- 4 documents downloaded by Anthony Levandowski, Sameer Kshirsagar, or
- 5 Radu Raduta before leaving plaintiff's payroll and thereafter taken by
- 6 them. Defendants shall also produce for copying the card reader, thumb
- 7 drive, or other media used for the downloads, as well as all subsequent
- 8 emails, memoranda, PowerPoints, text messages, or notes that have
- 9 forwarded, used, or referred to any part of said downloaded material. If
- 10 any part of said downloaded material has been deleted, destroyed, or
- 11 modified, then defendants shall state the extent thereof and produce all
- 12 documents bearing on said deletion, destruction, or modification.
- 13 5. Plaintiff may depose the declarants who submit declarations in opposition
- 14 to the motion for preliminary injunction. In addition, plaintiff may depose
- 15 three additional officers, directors or employees of defendants. Defendants
- 16 must make the deponents available upon 48 hours notice. Plaintiff may
- 17 have a total of 18 hours of deposition time (not counting breaks) to be
- 18 allocated as it wishes. All depositions to be taken by plaintiff shall occur
- 19 after defendants' opposition.
- 20 6. Upon 96 hours notice, defendants must produce specific documents at the
- 21 depositions of defendant personnel. The document requests, however,
- 22 must be very narrowly drawn and limited to six requests per deponent.
- 23 This is in addition to the documents ordered to be produced in paragraph 4
- 24 above.
- 25 7. The deadline for plaintiff to reply is continued from March 31 to **APRIL 21**.
- 26 Plaintiff may base its reply upon the foregoing discovery, but it may not
- 27 rely on fresh reply declarations on any point that could and should have
- 28 been raised up front.

United States District Court

For the Northern District of California

- 1 8. By April 28, defendants may file a sur-reply up to **TEN PAGES** in length,
- 2 limited strictly to addressing material in plaintiff's reply. It may not rely
- 3 on fresh sur-reply declarations on any point that could and should have
- 4 been raised in the opposition.
- 5 9. The hearing is continued from April 27 to May 4. If an evidentiary hearing
- 6 is required (which will be determined after all of the foregoing submissions
- 7 are reviewed), the evidentiary hearing will be on May 17 starting at 7:30
- 8 a.m., subject to time limits to be determined with declarations being treated
- 9 as direct testimony.
- 10 10. The foregoing depositions shall be in addition to the normal deposition
- 11 limits and all deponents questioned via the above shall be liable to sit for
- 12 another deposition later in the case. If the other side cross-examines at a
- 13 deposition, the cross-examination time shall count against the cross-
- 14 examiner's 18 hours.
- 15 11. The foregoing schedule presupposes that both sides shall cooperate in
- 16 discovery and all sealed information shall be supplied to defense counsel
- 17 and one in-house counsel immediately. Beyond the foregoing, expedited
- 18 discovery is **DENIED** until after a ruling on the motion for provisional
- 19 relief. Counsel shall meet and confer and propose a written joint plan for
- 20 further expedited discovery (for both sides) to follow the ruling on a
- 21 preliminary injunction and shall file said written plan, including a proposed
- 22 trial date, before the hearing on May 4. All filings shall be made by noon
- 23 on the day indicated.

24

IT IS SO ORDERED.

25

Dated: March 15, 2017.

26

WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE